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File No. O/Misc/52
61/52

Legal Department
G BRANCH

Subject:— Opinion on the
Miscellaneous matter

File No. O/Misc/52

Gen. 191 e.

61/52

# C O N T E N T S.

Legal Department File No. O.Misc./1952.

| Sr.No. | R.I. / C.No. | Subject. | Pages. |
|---|---|---|---|
| 1 | G-225<br>26-5-52. | R.L.A's opinions No. G-200, dated 7-3-49 and G-427, dated 8-12-50— Question whether Bhoan levy dues are recoverable as an assessment or as a revenue demand or as an arrear of Land revenue under Sec. 187 of the Bombay Land Revenue Code. (Copies not taken). | 1-2. |
| 2 | G-415<br>28-8-52. | Levy in respect of paddy only — Question regarding filing of suits against the merchants only for recovery of levy in respect of stocks of paddy and not of rice. | 3-4. |
| 3 | G-552<br>23-10-52. | Question writing of the amount due from M/s. Jaybharat Steam Navigation Co. Ltd. M/s. Karachi Steam Navigation Co. Ltd. & M/s. Universal Steamship & Transportse. Ltd. | 5-12. |

SMT/17.7.

Office of the R.L.A.

As already held in R.L.A's opinion No. G-200, dated the 7th March 1949 and No. G-427, dated the 8th December 1950, the levy is legal and valid and can be enforced even after merger. The levy order is not in these papers. If the Order in question declares the levy dues to be recoverable as an assessment or as a revenue demand or as an arrear of land revenue, they can be also be recovered as arrears of land revenue under section 187 of the Bombay Land Revenue Code; if the Order does not so declare, the only course open to Government for their recovery would be to file civil suits against the merchants, if Government deems fit (vide R.L.A's opinion No. G-664, dt. 31-12-51).

The view taken in the note of the Under Secretary, Civil Supplies Department, dated the 24th March 1952 is, therefore correct.

Sd/- P.M.LAD.
24/5.

Remembrancer of Legal Affairs.

U.R. to C.S.D., No. G-225, dated the 26th May 1952.

SNT/17.7.

Office of the R.L.A.

The Revenue Minister's Order, dated the 20th March 1948 provides for levy in respect of paddy only. The order seems to have been passed with the intention of recovering the profits acquired by the merchants as a windfall consequents upon the increase in prices of both rice and paddy. However, as the order does not expressly provide for imposition of levy in respect of stocks of rice, coupled with the fact that separate prices were fixed by the State Government in respect of rice and paddy, the Courts would in all probability construe this order, which is a taxation measure, strictly and in favour of the subjects and would not be inclined to interpret it as applicable to stocks of rice. The order contained in the Civil Supplies Department letter, dated the 28th March 1949 addressed to Shri Ratilal Damodardas directing him to pay levy in respect of stocks of rice, does not, therefore, seem to have legal sanction behind it and is not enforceable in respect of stocks of rice. Suits, may, therefore, be filed against the merchants only for recovery of levy in respect of stocks of paddy, and not of rice.

Sd/- P.M.LAD.
27/8.

Remembrancer of Legal Affairs.

U.R. to C.S.D., No. G-415, dated the 28th August 1952.

SNT/17.7.

Office of the R.L.A.

The names of the three companies Messrs. Jaybharat Steam Navigation Company, Limited, Messrs. Karachi Steam Navigation Company, Limited and Messrs. Universal Steamship and Transport Company, Limited, are not included in the letter written by the Bombay Steam Navigation Company on 29th November 1951 to the Executive officer of the office of the Director General of Shipping agreeing to pay stevedoring charges at the rate of Rs. 0-1-6 per bag for the 1948-49 and 1949-50 seasons. The amount due from Messrs. Jaybharat Steam Navigation Company, Limited is small viz. Rs. 190-15-3 plus Rs. 169-9-5. The amounts due from the other two companies are not stated in these papers. Presumably the amounts are small and if so it would not be worthwhile proceeding against the companies in liquidation for these petty amounts. The claim for stevedoring charges of Rs. 169-9-5 is strong and Messrs. Jaybharat Company are bound to pay it, but in the absence of these three companies agreeing to pay the enhanced rate, the claim for recovering of difference is weak and in the circumstances it would be advisable to write off the amount.

Sd/- P.M.LAD.
22/10.

Remembrancer of Legal Affairs.

U.R. to C.S.D., No. G-552, dated the 23rd October 1952.

SMT/17.7.